United Nations CRPD/C/DEU/QPR/2-3

Convention on the Rights of Persons with Disabilities

Distr.: General
10 October 2018

Original: English
English, Russian and Spanish only

Committee on the Rights of Persons with Disabilities

List of issues prior to submission of the combined second and third periodic report of Germany*

A. Purpose and general obligations (arts. 1–4)

1. Please provide information on the measures to:

(a) Expedite the review and examination of existing and proposed legislation to ensure compliance with the Convention;

(b) Develop indicators to monitor the implementation of the Convention and provide information on the allocated budgets;

(c) Ensure the meaningful consultation with and participation of representative organizations of persons with disabilities regarding the development and implementation of new policies, strategies, regulations and time frames to implement the Convention and the Sustainable Development Goals, and in other decision-making processes that concern them;

(d) Prohibit disability-based discrimination by all actors, including private actors, especially the denial of reasonable accommodation, and indicate legal and administrative safeguards, effective remedies and how non-compliance is sanctioned.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

2. Please provide information, at the national and Land levels, about:

(a) The strategies to ensure a uniform approach towards equality and non-discrimination legislation for persons with disabilities and its implementation;

(b) The legal measures available to contest disability-discriminatory laws and practices;

(c) Data on the number of reported cases of denial of reasonable accommodation and protection against disability-based discrimination from public and private actors since the previous concluding observations, including the sanctions applied and compensation awarded.

3. Please update the Committee on the reform to the General Equal Treatment Act and the provision and application of reasonable accommodation across all sectors for private actors. Please specify which sectors the reform will cover and indicate the timelines and funding of the initiatives.

* Adopted by the Committee at its twentieth session (27 August–21 September 2018).

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Women with disabilities (art. 6)

4. Please provide information on the strategies and legal measures for the active participation of women and girls with disabilities and for the full enjoyment of their rights under the Convention, particularly education, employment and health, including sexual and reproductive health and rights, and to be protected from sexual and gender-based violence. Please include gender-specific data and statistics, and provide examples of collaboration with organizations of women and girls with disabilities with the objective of safeguarding their interests.

5. Please explain the measures adopted and meaningful support available to empower women with disabilities who are mothers and mothers with children with disabilities to gain and keep employment.

Children with disabilities (art. 7)

6. Please clarify the existing mechanisms to ensure the meaningful representation of, and self-representation and free expression by, children with disabilities, including at home and in judicial proceedings, and provide information on financial and other support. Please advise how organizations of children with disabilities are consulted and involved in this process.

Awareness-raising (art. 8)

7. Please provide information on the systematic measures taken or foreseen to promote the application of the Convention and combat prejudice and harmful stereotyping against persons with disabilities, particularly among all public authorities and decision makers, including law enforcement officials, the media and actors within the education system.

8. Please also provide information on how the concepts and understanding of the Convention, including its accurate translation into German, are taken into consideration and applied in administrative decisions and in the development of uniform policies and legislation at the national and, especially, Land levels.

Accessibility (art. 9)

9. Please provide information on any national policies, strategies and effective remedies to ensure the accessibility of facilities and services in all sectors for persons with disabilities at the national and Land levels, through the principle of universal design, based on reasonable accommodation. Please also provide information on:

(a) The resources allocated for their adequate implementation at all levels;

(b) The measures taken to ensure equal access to digital services;

(c) The steps taken to eliminate the distinction between public and private providers of goods and services;

(d) The steps taken to meaningfully consult industries on their consideration of accessibility through universal design within the framework of innovation and research policies;

(e) The sanctions, including financial sanctions, imposed for the non-compliance of accessibility standards since the previous concluding observations.

10. Please provide updated information on concrete actions to upgrade barrier-free mobility and transport infrastructure at the national, Land and municipal levels, and to meet the deadline for accessible public transport by 2022.

Situations of risk and humanitarian emergencies (art. 11)

11. Please provide information on:

(a) The barrier-free emergency application and clarify whether it is available, free and accessible 24 hours a day, every day, throughout the State party for all persons with disabilities regardless of their impairment;

(b) The meaningful consultation and involvement of organizations of persons with disabilities in the design and implementation of disaster risk reduction strategies and humanitarian relief, and explain how relevant actions are monitored using criteria to measure actual implementation in line with the Convention;

(c) The legal and other measures at the national and Land levels to ensure the speedy identification of asylum seekers and refugees with disabilities and, when relevant, to provide accessible accommodation and support services.

Equal recognition before the law (art. 12)

12. Please provide information on:

(a) Any legal reforms and other strategies to abolish all forms of substituted decision-making and to ensure that decision-making regimes are in line with the Convention. Please explain how representative organizations of persons with disabilities have been meaningfully included, particularly in the process of reform of the current guardianship law;

(b) Disaggregated data on trends regarding persons with disabilities still under legal guardianship since 2015 (by sex, type of impairment and Land);

(c) Systematic training and education on the rights of persons with disabilities and the Convention for relevant professionals, including judges in guardianship courts, professional guardians, and civil servants in the social and health sectors.

Access to justice (art. 13)

13. Please advise about the human and financial resources specifically allocated to the justice system and the education and training on the Convention regularly provided to personnel in the justice, prosecution, police and prison systems by the State party, including:

(a) Equal recognition before the law and access to justice for all persons with disabilities regardless of the type and degree of disability at the national and Land levels;

(b) Accessibility of information, including plain language and interaction with persons with disabilities, particularly persons with psychosocial or intellectual disabilities;

(c) The provision of procedural and age-appropriate accommodations.

Liberty and security of the person (art. 14) and freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

14. Please explain the legal and other measures at the national and Land levels taken to:

(a) Reform all laws that allow for the deprivation of liberty of persons with disabilities and others to act on their behalf without consent, including section 1906, paragraph 4, of the German Civil Code;

(b) Prevent and eliminate involuntary hospitalization or forced institutionalization on the grounds of impairment, especially of children with disabilities and persons with psychosocial disabilities, and promote alternative measures;

(c) Prohibit and safeguard effectively against interventions without the free and informed consent of the persons with disabilities concerned, including medical treatment, electroconvulsive therapy, seclusion and the use of chemical, mechanical or physical restraints;

(d) Implement the Committee's recommendations (CRPD/C/DEU/CO/1, para. 34) and those of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53, para. 68), in the light of the German Supreme Court's ruling of 24 July 2018 (2 BvR 309/15 and 2 BvR 502/16).

Freedom from exploitation, violence and abuse (art. 16)

15. Please provide information on:

(a) All measures, including legal measures, taken to ensure the protection of persons with disabilities from exploitation, violence and abuse, including for those still in residential institutions;

(b) The independent monitoring, funding and accessibility of facilities and services, including shelters, for persons with disabilities, victims of violence and abuse;

(c) An overarching strategy with a time frame for the prevention and protection of violence against women and children with disabilities, particularly those still living in mental health institutions and who cannot express themselves;

(d) Existing or planned therapeutic and preventive initiatives aimed at perpetrators, or potential perpetrators, of violence with disabilities at the national and Land levels.

Protecting the integrity of the person (art. 17)

16. Please inform the Committee about:

(a) The measures to repeal legislation authorizing, with the consent of a third party, the sterilization of persons without their consent;

(b) Initiatives to implement its recommendations relating to intersex children (CRPD/C/DEU/CO/1, para. 38 (d)).

Liberty of movement and nationality (art. 18)

17. Please clarify whether "receiving centres" guarantee accessible accommodation and information in all accessible formats, as well as access to health-care services, rehabilitation and adequate individualized support services. Please provide information about the measures to implement Directive 2013/33/EU laying down standards for the reception of applicants for international protection, especially article 21 on provisions for vulnerable persons.

Living independently and being included in the community (art. 19)

18. Please provide information, at the national and Land levels, on the legal, policy and other measures — and, when appropriate, their specific time frames for implementation — that have been adopted to:

(a) Ensure sufficient, sustainable and long-term funding and support, including a sufficient number of accessible and affordable housing options, for individualized independent living within the community at national, Land and municipal levels;

(b) Expedite deinstitutionalization, particularly for persons with intellectual disabilities;

(c) Ensure equal access to long-term care insurance benefits for persons with disabilities currently living in communal housing provided by the integration assistance services and describe the measures taken to guarantee their free choices to live independently and be included in the community;

(d) Provide personal assistance services based on an assessment of the characteristics, circumstances and requirements of persons with disabilities and whether the type of impairment, or a person's income or that of his or her family can affect this assessment. Please specify any differences in such provisions at national and Land levels.

19. Please provide information on the initiatives planned to ensure full freedom of movement and inclusion in the community of persons with disabilities, in line with the judgment of the European Court of Justice in the case C-679/16.[1]

[1] See http://curia.europa.eu/juris/document/document.jsf?text&docid=204403&pageIndex=0&doclang=EN&mode=req&dir&occ=first&part=1&cid=742060.

20. Please provide data, at the Land and municipal levels, on the number of persons with disabilities below the age of 60 living in residential and nursing homes for the elderly, disaggregated by age, impairment and sex.

Personal mobility (art. 20)

21. Please explain the measures provided for persons with disabilities, including those using powered mobility-assistive devices, to gain access to and utilize the public transportation system. Please also describe the efforts to accommodate information on disruptions to services in accessible formats for all persons with disabilities.

Freedom of expression and opinion, and access to information (art. 21)

22. Please explain the strategies and action plans concerning the availability and accessibility of public information, including websites, television and various public and private, as well as social, media for persons with disabilities and their specific time frames. Please provide updated data on the percentage of publicly broadcasted television shows for adults and children containing subtitles and/or sign language or audio descriptions.

Respect for home and the family (art. 23)

23. Please provide information about the measures to expedite the legal prohibition of the separation of children from their parents based on the disability of one or both of the parents and the measures to provide support in the community to the parents and families of children with disabilities.

Education (art. 24)

24. Please provide information on:

(a) The efforts and time frames to ensure that all professionals within and around the education system are sufficiently aware of and receive adequate training to contribute to high-quality inclusive education;

(b) The identifiable resources available to ensure adequate staff, supervision and training to guarantee support for students with disabilities in mainstream schools, including higher education and sports activities;

(c) The efforts to promote the employment of teachers and assistants with disabilities in mainstream schools;

(d) The education establishments that have been transformed into inclusive settings since 2009 (number/percentage/types);

(e) The Länder that guarantee the right of persons with disabilities to attend mainstream schools with reasonable accommodation as a legal entitlement with safeguards.

Health (art. 25)

25. Please explain the initiatives taken to ensure affordable, full and equal access to health-care facilities and services for persons with disabilities, including within the local community, in the light of existing stipulations in the Social Code, particularly section 63b, paragraph 4, of Book XII.

26. Please clarify:

(a) Whether health information and education is available in all accessible formats;

(b) The measures to train health professionals and support personnel on the human rights-based approach to disability, and to avoid discriminatory and negative attitudes and stereotyping against persons with disabilities, particularly persons with psychosocial or intellectual disabilities;

(c) The safeguards that exist to ensure that medical procedures performed on persons with disabilities are carried out with their free and informed consent, particularly

on women and girls with disabilities, including effective monitoring and appeal mechanisms for infringements;

(d) The terms on which persons with disabilities can be denied access to private health insurance in, for example, section 19 of the General Anti-Discrimination Act (CRPD/C/DEU/1, para. 213) and to what extent expenses related to a disability or an impairment are covered through the statutory health insurance system. Please describe any differences at the national and Land levels.

Habilitation and rehabilitation (art. 26)

27. Please explain the legal safeguards and strategies, and the applicable standards, adopted to ensure that individual and adequate habilitation and rehabilitation services are accessible and affordable to persons with disabilities throughout their life, regardless of their living arrangements. Please also provide information on the habilitation/rehabilitation measures to combat long-term unemployment among persons with disabilities.

Work and employment (art. 27)

28. Please provide information on:

(a) The policies and achievements since the previous concluding observations aimed at increasing the employment rate of persons with disabilities in the open labour market in the public and private sectors, including specific measures and vocational training;

(b) The appointees responsible for the monitoring and evaluation of the system regarding the right to work and employment;

(c) The number of workers with disabilities currently recruited and employed on a permanent basis by private sector companies since the application of the Federal Participation Act in 2017;

(d) The accessibility of workplaces, including statistical information and information on the legal measures and complaint mechanisms with safeguards, and effective sanctions for non-compliance with binding laws and policies, such as quotas;

(e) The transition from unemployment or employment in sheltered workshops to open employment for persons with disabilities, the incentives available for employers, and statistics on the percentage of workers with disabilities that make the transition to the general labour market;

(f) The meaningful involvement, consultation and representation of organizations of persons with disabilities in labour-related matters.

Adequate standard of living and social protection (art. 28)

29. Please provide information on:

(a) The social protection measures for persons with disabilities, especially families of children or parents with disabilities, to eliminate the additional costs related to disability;

(b) The measures to mainstream women, youth and children with disabilities from families at risk of poverty or living in poverty in national poverty-reduction strategies;

(c) The effect on claims for integration assistance benefit from persons with disabilities following the adoption of the Federal Participation Act;

(d) Equal and comparable social and support services for persons with disabilities regardless of age, especially for adults with disabilities over the age of 65;

(e) The measures to address insufficient accessible and affordable housing, especially in densely populated urban areas.

Participation in political and public life (art. 29)

30. Please specify the legislative and other measures adopted to guarantee the right of all persons with disabilities to participate in political and public life, including electoral matters, and to vote in European, national, Land and municipal elections on an equal basis with others.

31. Please provide information about the measures to ensure the effective representation of persons with disabilities, particularly women, in political and public decision-making positions.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

32. Please explain the existing measures to supplement the planned representative survey of persons with disabilities (2017–2021) so as to ensure adequate statistics regarding all persons with disabilities, including gender-specific data, in particular taking into account target 17.18 of the Sustainable Development Goals and the Washington Group on Disability Statistics' short set of questions.

33. Please provide updated data on existing social and support services for persons with disabilities disaggregated by employment/non-employment status, age and sex.

International cooperation (art. 32)

34. Please provide information on:

(a) The efforts to implement, evaluate and contribute to the present European Disability Strategy;

(b) The initiatives to address the conclusions and recommendations of the evaluation of the Federal Ministry for Economic Cooperation and Development's Action Plan for the Inclusion of Persons with Disabilities,[2] including implementation of the Sustainable Development Goals;

(c) The measures to systematically carry out a disability impact assessment and to assess the extent to which persons with disabilities are exercising their entitlements to benefits, and the measures to assess collaboration with their representative organizations in all international cooperation projects;

(d) The budgets to ensure inclusive development cooperation in projects and research.

National implementation and monitoring (art. 33)

35. Please provide information on the coordination and collaboration among the appointed Land focal points and the meaningful consultation and involvement of organizations of persons with disabilities in their efforts to implement the Convention both at national and Land levels. Please also provide information about the efforts to evaluate the work and results of these focal points.

36. Please explain the measures at the level of the different Länder to strengthen the capacities of the independent national monitoring mechanism, through long-term funding and support.

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[2] German Institute for Development Evaluation, *Evaluation of the BMZ Action Plan for the Inclusion of Persons with Disabilities* (Bonn, 2017).